

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GALO MOROCHO, JOSE ESTRADA and
LUIS ZAMBRANO,

Civil Action No. 20- cv-7738

Plaintiffs,

-against-

ANSWER

NEW BROAD STREET AUTOMOTIVE INC., and
MICHAEL MASI,

Defendants.
-----X

Defendants, New Broad Street Automotive, Inc. and Michael Masi (together, "Defendants") by and through their counsel, Robert L. Byrne, now appear and answer the Complaint of Plaintiffs Galo Morocho, Jose Estrada, and Luis Zambrano ("Defendants") as follows:

1. The allegations of Paragraph "1" are denied.
2. The allegations of Paragraph "2" are denied.
3. The allegations of Paragraph "3" are admitted.
4. The allegations of Paragraph "4" are admitted.
5. The allegations of Paragraph "5" are admitted.
6. Defendants lack information or knowledge sufficient to form a belief as to the truth of the allegation asserted in paragraph "6."
7. Defendants lack information or knowledge sufficient to form a belief as to the truth of the allegation asserted in paragraph "7."
8. Defendants lack information or knowledge sufficient to form a belief as to the truth of the allegation asserted in paragraph "8."
9. The allegations of Paragraph "9" are denied.
10. The allegation of Paragraph "10" is admitted.
11. The allegations of Paragraph "11" are admitted.
12. The allegations of Paragraph "12" are denied.

13. The allegation of Paragraph "13" is admitted.
14. The allegation of Paragraph "14" is admitted.
15. The allegations of Paragraph "15" are admitted.
16. The allegations of Paragraph "16" are admitted.
17. The allegation of Paragraph "17" is admitted.
18. The allegation of Paragraph "18" is denied.
19. The allegation of Paragraph "19" is denied.
20. The allegation of Paragraph "20" is denied.
21. The allegation of Paragraph "21" denied.
22. The allegation of Paragraph "22" is admitted.
23. The allegations of Paragraph "23" state legal conclusions to which no responsive pleading is necessary.
24. The allegation of Paragraph "24" is denied.
25. The allegations of Paragraph "25" state legal conclusions to which no responsive pleading is necessary.
26. The allegations of Paragraph "26" are admitted.
27. The allegations of Paragraph "27" are denied.
28. The allegations of Paragraph "28" are denied.
29. The allegations of Paragraph "29" are admitted.
30. The allegations of Paragraph "30" are denied.
31. The allegations of Paragraph "31" are admitted.
32. The allegations of Paragraph "32" are admitted.
33. The allegations of Paragraph "33" are denied.
34. The allegations of Paragraph "34" are denied.
35. The allegations of Paragraph "35" are denied.
36. The allegations of Paragraph "36" are denied.
37. The allegation of Paragraph "37" is denied.
38. The allegation of Paragraph "38" is admitted.
39. The allegation of Paragraph "39" is denied.
40. No responsive pleading to the allegations of Paragraph "40" is required.

41. Defendants lack information or knowledge sufficient to form a belief as to the truth of the allegation asserted in paragraph "41."
42. The allegations of Paragraph "42" state legal conclusions to which no responsive pleading is necessary.
43. The allegations of Paragraph "43" state legal conclusions to which no responsive pleading is necessary.
44. The allegation of Paragraph "44" is admitted.
45. The allegations of Paragraph "45" state legal conclusions to which no responsive pleading is necessary.
46. The allegation of Paragraph "46" is denied.
47. The allegations of Paragraph "47" are denied.
48. The allegations of Paragraph "48" are denied.
49. The allegations of Paragraph "49" are denied.
50. The allegations of Paragraph "44" are denied.
51. The allegation of Paragraph "45" is denied.
46. The allegations of Paragraph "46" are denied.
47. The allegations of Paragraph "47" are denied.
48. The allegations of Paragraph "48" are denied.
49. The allegations of Paragraph "49" are denied.
50. The allegation of Paragraph "50" is admitted.
51. The allegation of Paragraph "51" is denied.
52. The allegations of Paragraph "52" are denied.
53. The allegations of Paragraph "53" are denied.
54. No responsive pleading to the allegations of Paragraph "54" is required.
55. The allegations of Paragraph "55" state legal conclusions to which no responsive pleading is necessary..
56. The allegation of Paragraph "56" is admitted.
57. The allegations of Paragraph "57" are denied.
58. The allegation of Paragraph "58" is denied..
59. The allegation of Paragraph "59" is denied.

60. The allegation of Paragraph "60" is admitted.
61. The allegation of Paragraph "61" is denied.
62. The allegation of Paragraph "62" is denied.
63. The allegation of Paragraph "63" is denied.
64. The allegations of Paragraph "64" are denied.
65. The allegations of Paragraph "65" are denied.
66. No responsive pleading to the allegations of Paragraph "66" is required.
67. The allegations of Paragraph "67" are denied.
68. The allegations of Paragraph "68" are denied.
69. The allegations of Paragraph "69" are denied.
70. The allegations of Paragraph "70" are denied.
71. The allegations of Paragraph "71" are denied.
72. The allegations of Paragraph "72" are denied.

DEFENDANTS' AFFIRMATIVE AND OTHER DEFENSES

By way of further answer, Defendants assert the following and other defenses. In asserting these defenses, Defendants are providing notice to Plaintiff of the defenses Defendants intend to raise, and Defendants do not assume the burden of proof as to any of the following defenses where the law does not impose such burden on Defendants.

AS AND FOR A FIRST DEFENSE

Plaintiff's Complaint, in whole or in part, fails to state a cause of action upon which relief can be granted as a matter of fact and law.

AS AND FOR A SECOND DEFENSE

Any acts or omission on the part of Defendants were in good faith, and Defendants had reasonable grounds for believing that any such act or omissions was not in violation of the Fair Labor Standards Act ("FLSA") or New York Labor Law ("NYLL").

AS AND FOR A THIRD DEFENSE

Plaintiff cannot establish a willful violation under the FLSA or the NYLL.

AS AND FOR A FOURTH DEFENSE

Plaintiff cannot recover liquidated damages because Defendants acted in good faith and had reasonable grounds for believing that their acts or omissions were not in violation of the FLSA or the NYLL.

AS AND FOR A FIFTH DEFENSE

The Complaint is barred, in whole or in part, pursuant to *inter alia*, 29 U.S.C. §260 and New York Law because any acts or omissions giving rise to this action were done in good faith and with reasonable grounds for believing that the actions or omissions were not a violation of the FLSA and New York Law and, as such, Defendants assert a lack of willfulness or intent to violate the FLSA or any applicable state law.

WHEREFORE, the Defendants respectfully request that the Court dismiss the Complaint together with such other relief as the Court deems just and proper.

Dated: Rye Brook, New York
October 21, 2020



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